REMARKS

Claims 1-31 are pending. Claims 1-31 are rejected.

Claims 1-31 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Publication No. 2002/0184631 A1 ("Cezeaux") in view of U.S. Patent No. 7,281,261 B2 ("Jaff"). Applicants respectfully traverse the rejection for at least the reasons as set forth below.

The combination of Cezeaux and Jaff, as alleged, does not teach each and every element as set forth in claim 1. For example, claim 1 recites, in part, "generating a request from a first location to receive media from a non-broadcast channel provider" and "receiving at a second location, said media from a storage location other than said non-broadcast channel provider".

In the Office Action mailed December 20, 2007 ("Non-Final Office Action"), the Examiner states that Cezeaux teaches "a subscriber, using a set top box 102 at a first location, requesting media from a content server 105". See Office Action mailed December 20, 2007 at page 5. In the Office Action Made Final mailed June 25, 2008 ("Office Action Made Final"), the Examiner again states that "a subscriber, using a set top box 102 requesting media from a content server 105". See Office Action Made Final at page 3.

In both cases, the Examiner has interpreted the Cezeaux as teaching that it is the set top box that makes the request for media.

It is respectfully submitted that, even though Jaff allegedly teaches remote access to the set top box, it is still the set top box that makes the request for media according to the Examiner's interpretation.

In the Non-Final Office Action, the Examiner alleged that a subscriber programmed the set top box and that it was the set top box that then requested the media. In the Office Action Made Final, the Examiner alleges that the set top can programmed, but this time remotely.

Nevertheless, to be consistent with the Examiner's allegations, whether the set top box is

programmed locally, as alleged in the Non-Final Office Action, or programmed remotely, as alleged in the Office Action Made Final, it is the programmed set top box that requests media.

If the programmed set top box is requesting media consistent with the Examiner's interpretations, then "generating a request from a first location to receive media from a non-broadcast channel provider" and "receiving at a second location, said media from a storage location other than said non-broadcast channel provider" as set forth in claim 1 are not taught by the combination of Cezeaux and Jaff, as alleged.

For at least the above reasons, the obviousness rejection based on Cezeaux and Jaff, as alleged, cannot be maintained.

Furthermore, Applicants respectfully request that the Examiner consider the following as set forth below.

If the Examiner is now alleging that the remote programming of Jaff constitutes requesting to receive media, then what does the set top box in Cezeaux do? Does the set top box in Cezeaux also request to receive media? Are there now alleged to be two requests to receive media?

If there are two alleged requests to receive media (i.e., one from remote programming the set top box and one from the set top box), then the Examiner is respectfully requested to so state his opinion for the record so that the case may be placed in condition for appeal.

If there is only one request to receive media (i.e., from remote programming the set top box and not from the set top box), then the Examiner is respectfully requested to so state his opinion for the record so that the case may be placed in condition for appeal.

The Examiner's assistance in these matters would be gratefully appreciated to further expedite prosecution.

For at least the above reasons, it is respectfully requested that the rejection under 35 U.S.C.

§ 103(a) be withdrawn with respect to claim 1 and its rejected dependent claims (i.e., claims 2-10).

The same or similar arguments made with respect to claim 1 can also be made, if applicable, with respect to claims 11 and 21.

For at least the above reasons, the obviousness rejection based on Cezeaux and Jaff, as alleged, cannot be maintained.

For at least the above reasons, it is respectfully requested that the rejection under 35 U.S.C. § 103(a) be withdrawn with respect to claims 11 and 21 and their rejected dependent claims (i.e., claims 12-20 and 22-31).

Applicants do not necessarily agree or disagree with the Examiner's characterization of the documents made of record, either alone or in combination, or the Examiner's characterization of recited claim elements. Furthermore, Applicants respectfully reserve the right to argue the characterization of the documents of record, either alone or in combination, to argue what is allegedly well known, allegedly obvious or allegedly disclosed, or the characterization of the recited claim elements should that need arise in the future.

With respect to the present application, Applicants hereby rescind any disclaimer of claim scope made in the parent application or any predecessor or related application. The Examiner is advised that any previous disclaimer of claim scope, if any, and the alleged prior art that it was made to allegedly avoid, may need to be revisited. Nor should a disclaimer of claim scope, if any, in the present application be read back into any predecessor or related application.

In view of at least the foregoing, it is respectfully submitted that the present application is in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, to charge any fee

deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

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Respectfully submitted,

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